

REMARKS/ARGUMENTS

Applicants thank the Examiner for the helpful discussion regarding this application on December 8, 2003. Claims 1-58 are pending. Claims 1, 4-12, 19, 22, 33-36, 40, 42-50, and 52-57 stand rejected on various grounds. Claims 2, 3, 13-18, 20-21, 23-32, 37-39, 41, 51, and 58 have been withdrawn as being directed to a non-elected invention. Applicants will cancel such claims except claims 51 and 58 upon indication of allowable subject matter. Applicants point out that claims 51 and 58 are dependant on, respectively, amended claims 48 and 55 and request that the Examiner allow claims 51 and 58 upon allowance of claims 48 and 55, respectively. See MPEP §809.02(c). Claim 34 is cancelled.

Applicants have amended a number of dependent claims to correct typographical errors and to change their dependencies. None of such amendments affects the scope of the independent claims, and no new matter has been added.

Applicants respectfully request reconsideration of the rejections in view of the following remarks. Issues raised by the Examiner will be addressed below in the order they appear in the Office Action.

Claim Rejections based on Geer

The Examiner has rejected Claims 1, 4-12, 19, 22, 33-36, 40, 42-46, 48-50, and 52-57 ("Claims") based 35 U.S.C. §102 and §103 as being anticipated by, or rendered obvious by, U.S. patent 6,519,876 issued to Geer. Applicants respectfully traverse the rejection.

As discussed with the examiner during the phone conversation, Applicants' amended claim 1 refers to a shoe that includes a bottom having an expansion mechanism for expanding the bottom laterally underlying the metatarsals, the expansion mechanism adapted to create a lateral force in response to a force applied perpendicular to the bottom at the expansion mechanism. The remaining Claims refer to the same or a similar expansion mechanism. The mechanism can operate, for example, as shown in Figure 5 and described on page 13 where the expansion portion may expand to widen the shoe as forces are applied perpendicular to the bottom during ordinary use. This reaction is assisted by the expansion mechanism's creation of lateral forces within the side of the bottom in response to forces applied perpendicular to the bottom at the

expansion mechanism. In this respect, the expansion mechanism cooperates with the natural action of the foot itself to achieve a more comfortable shoe in use. Applicants respectfully submit that while Geer may show soles that can expand, the Geer patent does not teach or suggest a shoe having the reactive expansion mechanism as claimed. Accordingly, Applicants respectfully submit that the Geer patent does not, either alone or in combination with any other reference, anticipate the Claims or render them obvious.

Claim Rejections based on Sacre and Donnadieu

The Examiner has rejected claim 47 as being obvious over Sacre in view of Donnadieu. Applicants respectfully traverse the rejection.

As discussed with the Examiner during the phone conference, Applicants' claim 47 refers to a waterproof, breathable liner carried inside the bottom and the upper, the liner having at least one stretchable region, and the liner having a slip lasted fore part and a cement lasted back part sealed with a waterproof gasket. As discussed with the Examiner, the processes of slip-lasting and cement lasting refer not just to processes but to the structure of shoes resulting from those processes, and thus constitute a structural limitation on the claimed invention. When combined, these processes result in a unique structure having a flexible (i.e. slip lasted) fore-part and a stiff (i.e. cement lasted) back part providing improved comfort and flexibility in the fore part while helping to maintain stability in the back part. Applicants believe that claim 47 which recites these features as well as a waterproof breathable liner with stretchable regions is distinguishable from all of the cited prior art. Applicants therefore assert that the claim is in condition for allowance.

CONCLUSION


In view of the foregoing, the Applicants submit that all of the pending, independent claims are believed to be in condition for allowance. For similar reasons, all of the claims depending therefrom are also believed to be in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000.

Should an extension of time be required or any other fees required in connection with this paper, the Applicants hereby petition for the same and request that the extension fee and any other fee required for timely consideration of this submission be charged to **Deposit Account No. 18-1945**.

Respectfully Submitted,

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